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DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-205038.2

DATE: December 30, 1981

MATTER OF: Automated Datatron Inc.

DIGEST:

1. Protest that awardee under small business set aside should not be considered a small business firm because a large business allegedly will perform most of the contract work is dismissed since the Small Business Administration is empowered to make conclusive determinations on matters of small business size status.
2. Subcontracting with a large business under a service contract set aside for small businesses is not legally objectionable.
3. GAO does not review an affirmative determination of responsibility absent a showing of fraud on the part of procuring officials or an allegation that definitive responsibility criteria in the solicitation were misapplied.

Automated Datatron Inc. protests the General Services Administration's award of a contract to Micrographics Specialties, Inc. under solicitation No. CDPXE-81-023 for microfilm and hard copy service, which was set aside for small business concerns. The protester complains that Micrographics Specialties should not qualify as a small business because a large business firm allegedly will be doing the majority of the contract work. The protester also contends that Micrographics Specialties is not a responsible concern.

We will not consider the protest.

Under 15 U.S.C. § 637(b) (Supp. III 1979), the Small Business Administration is empowered to make conclusive determinations on matters of small business size status for Federal procurement and sales purposes. See Kelley Name Pin Co., Inc., B-204735, September 22, 1981, 81-2 CPD 242. Therefore, we will not consider Automated Datatron's suggestion that Micrographics should not

be considered a small business because of its alleged arrangement with a large business firm. Nonetheless, we do point out that subcontracting with large business firms under service contracts set aside for small business is not legally objectionable. See Engineering Computer Optecnomics, Inc., B-203508, June 22, 1981, 81-1 CPD 516.

Regarding Micrographics Specialties' responsibility, the contract award necessarily included a determination by the contracting agency that Micrographics Specialties is a responsible firm. Federal Procurement Regulations 1-1.1204-1(a) (1964 ed.). This Office does not review a protest against an affirmative determination of responsibility unless fraud on the part of procuring officials is shown or the solicitation contains definitive responsibility criteria that allegedly have been misapplied. Proficiency Associates, Inc., B-198844.3, January 19, 1981, 81-1 CPD 29. Neither exception applies here.

The protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel